

-----	X
UNITED STATES OF AMERICA,	:
	:
	:
-against-	:
	:
	:
NELSON VARGAS,	:
	:
	:
Defendant.	:
-----	X

16-CV-5044 (VEC)
88-CR-325-2 (VEC)

ORDER

WHEREAS the petition was filed within one year of the Supreme Court’s decision declaring an identical, statutory residual clause unconstitutionally vague, *see Johnson v. United States*, 135 S. Ct. 2551 (2015);

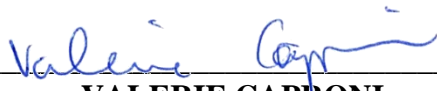
WHEREAS the Second Circuit has recently held that a § 2255 petition that sought to vacate a sentence that was imposed when the Guidelines were mandatory based on *Johnson* was untimely filed, despite the petition being commenced within one year of *Johnson*, *see Nunez v. United States*, No. 18-1803, 2020 WL 1501937 at *3, 5 (2d Cir. Mar. 30, 2020);

IT IS HEREBY ORDERED that Mr. Vargas must file a letter, no later than **April 28, 2020**, explaining whether there is any reason why his petition should not be withdrawn or summarily dismissed in light of the Second Circuit's decision in *Nunez*. If necessary, the

Government must file a response by **May 5, 2020**.

SO ORDERED.

Dated: April 15, 2020
New York, NY



VALERIE CAPRONI
United States District Judge